

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 15-546V

Filed: October 6, 2016

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ROBERT BERKLEY,

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UNPUBLISHED

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Petitioner,

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v.

\*

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

\*

Attorneys' Fees and Costs;

\*

Reasonable Amount to Which

\*

Respondent Does Not Object

\*

Respondent.

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*John Howie, Howie Law, P.C., Dallas, TX, for petitioner.*

*Douglas Ross, U.S. Department of Justice, Washington, DC, for respondent.*

### **DECISION ON ATTORNEYS' FEES AND COSTS<sup>1</sup>**

**Roth**, Special Master:

On May 28, 2015, Robert Berkley ("Mr. Berkley" or "petitioner") filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> (the "Vaccine Act"). Petitioner alleged that he developed Guillain-Barre Syndrome after receiving an influenza vaccine on October 17, 2013. *See generally* Petition ("Pet."), ECF No. 1. Respondent denies that the influenza vaccine caused petitioner's alleged injury. *See* Stipulation at ¶ 6. Nevertheless, the parties agreed to settle this case. Respondent filed a stipulation of settlement on September 21, 2016. Stipulation, ECF No. 32. Accordingly, on September 21, 2016, the undersigned issued a decision approving the settlement. Decision, ECF No. 33.

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<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

Petitioner now seeks an award of attorney's fees and costs in the amount of \$27,130.84, pursuant to Section 15(e) of the Vaccine Act. Motion for Attorneys' Fees ("Motion for Fees"), ECF No. 37. In accordance with General Order #9, petitioner has filed a signed statement indicating that petitioner did not incur any out-of-pocket expenses. Motion, Exhibit 2, ECF No. 37. Petitioner indicated in his fee application that respondent does not object to the amount of fees sought. Motion at 1. After careful consideration, the undersigned has determined to grant the request in full for the reasons set forth below.

The Vaccine Act permits an award of reasonable attorneys' fees and costs. § 15(e). Based on the reasonableness of petitioner's request and the lack of opposition from respondent, the undersigned **GRANTS** petitioner's motion for attorneys' fees and costs.

**Accordingly, the undersigned awards a lump sum of \$27,130.84 in the form of a check jointly payable to petitioner and petitioner's counsel, John Howie.**

The clerk of the court shall enter judgment in accordance herewith.<sup>3</sup>

**IT IS SO ORDERED.**

**s/Mindy Michaels Roth**  
Mindy Michaels Roth  
Special Master

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<sup>3</sup> Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.